

REMARKS

Reconsideration is respectfully requested of the rejections under 35 U.S.C. §112, second paragraph and 35 U.S.C. §103(b). Claims 1-4, 15-18 and 20-23 are under consideration.

Claim 1, the sole independent claim under prosecution, has been amended to delete any reference to “plies”. Accordingly, these deletions represent the only change to this claim except for editorial changes to correct spelling of polymers. Claims 2-4 also have been amended to delete any reference to “plies”; also claim 4 has been amended in editorial fashion. Newly claims 22 and 23 introduce the requirements of claims 4 and 5 which are now cancelled. Also, antecedent support for claims 22 and 23 are present on page 6, lines 11 to 19. No new matter is present in the amendments to the claims and the introduction of new claims.

Rejection Under 35 U.S.C. §112

All previous claims under prosecution stand rejected under 35 U.S.C. §112, second paragraph. It is considered the present amendment complies with the Office position and overcomes this ground of rejection.

Paragraph 5 states a rejection based on use of the word “ply”. In response this word has been deleted from all claims.

Paragraph 6 and 7 include rejections for claim 5 and 6. These claims have been cancelled. (Also newly introduced claims 22 and 23 comply with the Office position).

Rejection Under 35 U.S.C. §103(b)

All previous claims under prosecution stand rejected under 35 U.S.C. §103(b) based on WO 03/039280 (English Translation) in view of Faircloth (3,359,610).

Paragraph 9 sets forth “The features of WO 03/039280 (reference herein as “WO ‘280)a and Faircloth have been set forth in the previous Office Action”.

Also, it is noted that the Office position in “Response to Argument” states “However, as set forth above, it is unclear what the applicant is considering a ply”.

It is respectfully submitted that all claims under prosecution with deletion of “ply” directly enable a clear position of inapplicability of a combination of the WO ‘280 and Faircloth publications.

Prior to discussing the inapplicability of the provisions of 35 U.S.C. §103(b) it may be helpful to the first review the scope of amended claim 1.

Claim 1 requires at least two warp and weft systems assembled together to build pockets which are required to be (1) yarns which are monofilament, multifilament, spun or core and (2) based on defined materials. Furthermore, each warp and weft system is required to be made of a material having a different thermal shrinkage. Also, it is required that two warp and weft systems are woven together such that a same side of two adjacent pockets is made of two different warp and weft systems.

In contrast the construction of WO '280 differs. Only a reading of the Abstract shows that a structure is formed by two stacked faces which are intermittently connected to form pockets. The two stacked faces are disclosed as two distinct and superimposed fabrics which are connected by a thread. This construction of separate layer formation with pockets created by use of a thread differs from the construction of the present invention.

The following is present concerning a combination of WO '280 with Faircloth in the final Office Action dated July 25, 2008 prior to the present Request for Continued Examination:

WO 03/039280 fails to teach interweaving together the different materials in the different layers to create pocket regions that can contract upon exposure to heat. Faircloth is drawn to a woven fabric with pocket regions that pucker as a result of heat. Faircloth shows that different known weaving patterns can be used to create pocket regions in a multi-layered woven fabric (column 1, line 62 – column, line 25). Thus, it would have been obvious to one having ordinary skill in the art to interweave the different fiber materials in a multilayered fabric, as taught by Faircloth, to create the fabric of WO 03/039280 with woven pocket regions that pucker upon exposure to heat. One of ordinary skill in the art would use any known weave pattern with pocket regions to create the fabric such that fabric will form pockets that insulate upon exposure to heat.

Since the Office rejection relies on column 1, line 62 to column 2, line 25 of Faircloth, this disclosure reads as follows:

The fabric construction contemplated in accordance with this invention are multiple-ply fabrics or fabrics having a **plurality of plied fabric layers, including a layer of essentially non-elastic or inelastic yarns and a layer or ply of essentially elastic fibers capable of shrinkage by post treatment** with heat after fabrication but which elastic yarns nevertheless retain the properties of resiliency and stretch after such treatment of the fabric. Moreover, these plied fabric constructions are retained together by a weave of the

elastic yarns, the elastic yarns being woven into the ply of inelastic yarns at discrete locations of attachment to leave relatively wide areas of non-attachment. **Thus, the ply of elastic yarns attached at relatively few locations float on one surface of the ply of inelastic yarns to which it is bound by the construction of composite fabrics.** In this manner a corrugated effect is produced in the ply of inelastic yarns by the post heat treatment to cause shrinkage of the elastic yarns and a puckering or outward displacement of the ply of inelastic yarns at the locations of non-attachment. Various designs and effects can be produced as regards the surface characteristics of the ply of inelastic yarns, and the resultant bulked fabric or cloth will remain highly flexible or elastic. (emphasis added)

Thus, Faircloth relies on a fabric construction of a plurality of plied fabric layers. The fabric layers are connected by a weave of elastic yarns. These elastic yarns are “attached at relatively few locations [and] float on one surface of the ply of inelastic yarns to which it is bound by the construction of composite fabrics”.

Thus both WO ‘280 and Faircloth employ separate and distinct fabric layers which are interconnected. This type of construction differs from the present invention which as previously set forth requires warp and weft systems having different thermal shrinkage and having a weaving pattern such that a same side of two adjacent pockets is made of two different warp and weft systems.

It is respectfully submitted that the combination of WO ‘280 and Faircloth fail to disclose and fail to render obvious this requirement of the present invention.

As a summary of applicants’ position, the applied prior art publication rely on separate layers or separate plies which are interconnected. This construction lies outside the scope of the present invention.

Reconsideration and withdrawal of all grounds of rejection is requested. A Notice of Allowance is solicited.

Respectfully submitted,

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